

**CENTRAL BOARD OF CUSTOMS**

# **HUMANITARIAN AID**

**INFORMATION MATERIAL**

**Warsaw, 2001**

## **Customs declaration for transport (transit) of the humanitarian aid**

Transfers of goods allocated for humanitarian purposes are, in fact, subject to the same regulations, which refer to transportation realised within the commercial activity. Pursuant to provisions of the Customs Code and the Regulation of the Minister of Finance of November 10<sup>th</sup>, 1999, on Summary Declarations and Customs Declarations (O.J.<sup>1</sup>. No. 104, item 1193 as amended), the placement of goods under the transit procedure can take place, inter alia, on the basis of the following documents:

1. SAD
2. TIR carnet
3. Railway documents: CIM bill of lading, TR transfer list, SMGS bill of lading, SAT bill of lading, and SMPS express bill.

### **I. ENTRY OF GOODS INTO THE POLISH CUSTOMS TERRITORY**

In the case of a transport of goods constituting the humanitarian aid in the transit procedure between Polish customs offices on the basis of the SAD document there should be attached the following documents:

1. bill of lading – to be seen,
2. confirmation of the receipt of a security or a permit on the relief from the duty to make the security, if the goods placed under the transit procedure require such a security – to be seen,
3. invoice or another document determining the value (it refers only to the import),
4. other documents if they are required on the basis of provisions other than customs ones (in the case of a transfer of goods within the charity aid, they may include first of all documents required for the transport of meat as specified in art. 12 of the Act of April 24<sup>th</sup>, 1997, on Combating Infectious Illnesses of Animals, Examinations of Slaughter Animals, and Meat, as well as the State Veterinary Inspection – O.J. of 1999, No. 66, item 752).

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<sup>1</sup> Official Journal of the Republic of Poland

As far as the security is concerned, there should be applied the following regulations:

1. Provisions of art. 99 §2 of the Customs Code (O.J. No. 23, item 117 as amended), stating that in order to guarantee the coverage of the sum resulting from the customs debt and other receivables that may arise in connection with the import or export of goods, the person in charge should make a security.
2. Provisions of §1, item 2 of the Regulation of the Council of Ministers of October 15<sup>th</sup>, 1997, on determining cases when the customs office may resign from taking the security (O.J. No. 128, item 830 as amended), stating that the customs office may resign from taking the security if the person in charge is an organizational unit, legally appointed to realise humanitarian aid, and the subject matter of the transport includes goods constituting such a humanitarian aid.

In the case of a transport of goods under the TIR carnet, the said TIR carnet should be presented in the Polish border customs office where the goods are introduced into Poland, and in the case of a common transit procedure: a transit note and the following documents:

1. bill of lading – to be seen,
2. permit to bring the goods if it is required,
3. other documents required on the basis of other regulations.

Both the TIR carnet and the CTP transit note are guarantee documents, so it is not required to make the security at the border. In the case of a transport of the goods by railway against international railway documents, Polish State Railway (PKP) becomes the main person in charge and they are exempted from the duty to make the security. There is not required the presentation of any additional documents.

## **II. EXIT OF GOODS FROM THE POLISH CUSTOMS TERRITORY**

In the case of the transport of national goods constituting the humanitarian aid, the following documents from the internal customs

office addressed to the border customs office, based on SAD documents, shall be attached to the customs declaration:

1. invoice or another document determining the value,
2. bill of lading – to be seen,
3. other documents if they are required on the basis of other regulations.

If domestic goods are transported, no security is required.

The carrier can transport the goods of the humanitarian aid outside the borders of Poland against guarantee documents resulting from international agreements: TIR Convention and the Convention of the Common Transit Procedure, where Poland is one of the Parties.

The Customs Convention concerning the international transport of goods with the application of TIR carnets does not contain provisions prohibiting the transport of goods within the humanitarian aid. However, according to new regulations of the Convention, contained in Part II of Annex 9, valid since February 17<sup>th</sup>, 1999, the transport of goods under TIR carnets can be realised only by the carriers who have been permitted to use the TIR procedure.

Taking into account the above rules persons (natural or legal) can apply for the permit to take advantage of the TIR procedure if they meet conditions provided in the aforementioned Annex. The most important ones include:

- a) proving the experience or at least the capacity of regular international transport (possessing the license to carry out the international road transport);
- b) stable financial situation;
- c) proven knowledge about the application of provisions of the TIR Convention;
- d) no serious or repeated violations of customs or fiscal regulations.

The placement of goods under the transit procedure within the Common Transit Procedure for the road transport requires a submission of an appropriate material security when starting the procedure (in the form of a cash deposit or a guarantee of financial institutions). No types of goods or their later purpose are excluded from the duty. The security is returned after the Customs Office

where the procedure has been launched receives evidence confirming a correct completion of the transit procedure. The deadline for waiting for the completion of the transit procedure is quite long, since the documents are sent by mail and by means of offices set up especially for this purpose. Provisions of the Convention do not provide for a possibility to release the submitted security before the receipt of the evidence mentioned above.

Aspects of requirements connected with the necessity to make the material securities in the case of the transport of goods placed under the transit procedure via territories of other countries result from internal regulations of the said countries. The securities are usually released after the goods leave the given country.

If the given person submits a single guarantee, the sum of the single guarantee should be calculated according to the volume of customs, fiscal, and other due payments that would be mature in the moment of bringing the goods into the Polish customs territory. In such a case, the highest rates should be taken into consideration (autonomous or conventional), since there are no bases to apply reduced rates (the goods are transported via various countries and there is permitted a change of the final office).

### **III. FEES**

It should be also remembered that when the carrier realises the transport (including also the humanitarian aid), he should possess a permit to carry out the international road transport (according to the Act of August 2<sup>nd</sup>, 1997, on Conditions of Performing the International Road Transport - O.J. No. 106, item 677 as amended) and pay road fees at the Polish border crossing point (on the basis of the regulation of the Minister of Transport and Maritime Economy on fees for the transport via national roads realised within the road transport and units appointed to collect them – O.J. No. 148, item 993 as amended). Such a permit is issued by the Minister of Transport and Maritime Economy.

The carriers have the possibility to apply to the Ministry of Transport and Maritime Economy with a request to be exempted from the duty to pay road charges and possess permits.

## **Import of the humanitarian aid**

The following regulations are binding in the case of a relief of the humanitarian aid imported into the territory of Poland from customs duties:

**Pursuant to art. 190 §1 of the Customs Code (O.J. no. 23, item 117 as amended)**, objects imported within a non-returnable aid granted by governments of foreign states and international inter-governmental organizations are free of customs duties. Persons applying for the relief from customs duties on this basis should prove to the Customs Office that the goods have a character of a delivery determined in the said regulations and that they are imported on the basis of an international agreement. To this end there should be indicated the place of the publication of the agreement, and if it was not published, deliver a copy of the agreement certified by a governmental body which has signed it to the Customs Office. It should result from the invoice attached to the customs declaration that the certain delivery has a character of an aid of a foreign state government for Poland and that it is financed from funds of the state.

On the basis of art. 190 §1 item 11, things imported from abroad, which have been purchased from means of the Ecofund coming from the cancellation of part of the foreign debt, are also exempted from customs duties on the condition that the person indicates that the goods have been purchased with a credit granted by the government of a foreign state or an international inter-governmental organization, as well as goods purchased from a credit granted by a national person from the financial aid obtained from abroad.

**Pursuant to art. 190 §1 item 12 of the Customs Code**, medical, rescue, and rehabilitation equipment, medicines, blood, clothes, and food articles, sanitary articles and cleaning agents, as well as other things used for the preservation or protection of the health, along with other articles of a medical purpose, constituting the humanitarian aid, received free of charge by organizational units legally appointed for the realization of such an aid or acquired from public collections and used for such an aid, are also exempted from

customs duties. In order to exempt them from the customs duties on the basis of this provision, the donation deed shall be attached to the customs declaration or Articles should be presented, from which it will result that the person applying for a relief from customs duties is an organizational unit legally appointed to realised humanitarian aid. Organizational units legally established to realise humanitarian aid are, for instance: the Polish Red Cross (PCK), PKPS, social aid houses, orphanages, and other institutions subject to the Ministry of Health and Social Aid.

Persons applying for a relief from customs duties in the case of things acquired from public collections should indicate that the things imported from abroad have been acquired with means coming from such collections.

A receipt of an authority's permit granted in an administrative way is a condition to accept any public collection of donations as a public collection. The permit for a public collection can be granted only to registered associations, organizations possessing corporate powers, or committees organized to achieve a certain goal. The purpose of the collection should comply with Articles of the association or organization, or an organizational deed of the committee.

**Pursuant to art. 190 §1 item 24**, things received free of charge by budgetary units, allocated for their activities, except for economic activities, are also exempted from customs duties.

**Relief from customs duties are also provided in acts other than the Customs Code.** The most important of them are:

- the Act of May 17<sup>th</sup>, 1989 on the Guarantee of the Freedom of Conscience and Religion (O.J. No. 29, item 155 as amended);
- the Act of July 4<sup>th</sup>, 1991, on the Relation of the State Towards the Polish Autocephalic Orthodox Church (O.J. No. 66, item 287 as amended);
- the Act of May 13<sup>th</sup>, 1994, on the Relation of the State Towards the Evangelic Reformed Church in the Republic of Poland (O.J. No. 73, item 324 as amended);
- the Act of June 30<sup>th</sup>, 1995, on the Relation of the State Towards the Evangelic Methodist Church in the Republic of Poland (O.J. No. 97, item 479 as amended);

- the Act of June 30<sup>th</sup>, 1995, on the Relation of the State Towards the Baptist Christian Church in the Republic of Poland (O.J. No. 97, item 480 as amended);
- the Act of June 30<sup>th</sup>, 1995, on the Relation of the State Towards the Seventh Day Adventist Church in the Republic of Poland (O.J. No. 97, item 481 as amended);
- the Act of June 30<sup>th</sup>, 1995, on the Relation of the State Towards the Polish Catholic Church in the Republic of Poland (O.J. No. 97, item 482 as amended);
- the Act of February 20<sup>th</sup>, 1997, on the Relation of Jewish Religious Communes in the Republic of Poland (O.J. No. 41, item 251 as amended);
- the Act of February 20<sup>th</sup>, 1997, on the Relation of the State Towards the Mariavits Catholic Church in the Republic of Poland (O.J. No. 41, item 252 as amended);
- the Act of February 20<sup>th</sup>, 1997, on the Relation of State Towards the Mariavits Old Catholic Church in the Republic of Poland (O.J. No. 41, item 253 as amended);
- the Act of February 20<sup>th</sup>, 1997, on the Relation of the State Towards the Whitsuntide Church in the Republic of Poland (O.J. No. 41, item 254 as amended).

The relief from the customs duties for legal churches, religious communes, and other religious unions is applied on the basis of provisions of the aforementioned acts and it is not equivalent to a relief from the tax on goods and services (VAT). Legal entities may apply for a possible relief of the donations from the tax in local Fiscal Offices, which shall take individual decisions about such relief. In a situation when church legal entities do not present a decision exempting the goods from fiscal duties, the Customs Office is obliged to collect the tax.



## **Customs declaration for the export procedure and release for free circulation procedure of the humanitarian aid**

Rules and mode of making customs declarations are regulated by the Regulation of the Minister of Finance of November 10<sup>th</sup>, 1999, on Summary Declarations and Customs Declarations (O.J. No. 104, item 1193 as amended).

1. The customs declaration can be made in the form or in the set of the Single Administrative Document (SAD) in the case of a declaration for the procedure of accepting the following for the trade or the export procedure:
  - Goods exempted from customs duties, constituting gifts for legal entities, churches and other religious unions, if the gifts are subject to a relief from taxes,
  - Medical, rescue, and rehabilitation equipment and machines, medicines, blood, clothes, and food articles, sanitary articles, cleaning agents, and other things used for the preservation or protection of the health, as well as other articles of a medical purpose, constituting humanitarian aid, received free of charge by organizational units legally established to realise such a procedure or acquired from public collections and used for such an aid (art. 190 §1 item 12 of the Customs Code).
2. The customs declaration shall be made in the form or SAD documents in the case of a declaration for the procedure of an acceptance for trade of the following:
  - Goods exempted from customs duties, constituting gifts for legal entities, churches and other religious unions, if the gifts are subject to a relief from taxes,
  - Things imported within a non-returnable aid granted by governments of foreign states and international inter-governmental organizations (art. 190 §1 item 11 of the Civil Code),
  - Things obtained free of charge by budgetary units, allocated for their activities, except for economic activities (art. §1 item 24 of the Civil Code).

3. In the case of a qualification of the goods according to various codes of the customs tariff, there is acceptable the application of one customs tariff for the purpose of lodging the customs declaration.

- a) provided for the article subject to the highest customs and fiscal duties within the procedure of accepting it for trade,

It refers to:

- goods constituting gifts for legal entities churches and other religious unions (relief of customs duties, if the gifts are not subject to taxes),
- medical, rescue, and rehabilitation equipment, medicines, blood, clothes, and food articles, sanitary articles, cleaning agents, and other things used for the preservation or protection of the health, received free of charge by organizational units legally established to realise such an aid or acquired from public collections and used for such an aid.

- b) according to the classification of goods dominating in the export procedure,

It refers to:

- goods constituting gifts for legal entities churches and other religious unions (relief of customs duties, if the gifts are not subject to taxes),
- medical, rescue, and rehabilitation equipment, medicines, blood, clothes, and food articles, sanitary articles, cleaning agents, and other things used for the preservation or protection of the health, received free of charge by organizational units legally established to realise such an aid or acquired from public collections and used for such an aid.

4. : The following should be attached to the customs declaration made in SAD documents during the release for free circulation procedure

- the invoice, and in the case of its lack, the donation deed,
- written application for a relief from customs duties,
- statement about the purposes the goods are allocated for,
- specification of goods or the list of goods if the invoice does not contain it,
- Customs Value Declaration (DWC), except for cases when the value of goods does not exceed EUR 800,

- authorization for the goods declaration if the customs declaration is realised by a representative,
- transport document (to be seen),
- certificate about the identification statistical number REGON granted to the recipient (to be seen),
- certificate about the Fiscal Identification Number NIP granted to the recipient (to be seen),
- other documents required on the basis of separate regulations (e.g., permits, licenses, certificates, attests, certificates about tests).

5. The following shall be attached to the customs declaration made in SAD in the export procedure:

- the invoice, and in the case of its lack, the donation deed,
- specification of goods or the list of goods if the invoice does not contain it,
- authorization for the goods declaration if the customs declaration is realised by a representative,
- transport document (to be seen),
- certificate about the identification statistical number REGON granted to the recipient (to be seen),
- certificate about the Fiscal Identification Number NIP granted to the recipient (to be seen),
- other documents required on the basis of separate regulations (e.g., permits, licenses, certificates, attests, certificates about tests).

6. The goods' recipient in the country should be previously informed by the donor about the planned transport and about the border crossing point that the transport will pass. It will facilitate the goods' recipient prepare appropriate documents, and in the case of church legal entities, to submit the application to be exempted from the tax earlier. The goods' recipient can also inform his own customs office about the planned transport to ensure the completion of formalities connected with the import by the customs office outside the queue.

## **Separate regulations applicable in the case of the humanitarian aid**

### **I. MEDICINES**

#### **Communique No. 15 of the National Pharmaceutical Inspector of July 10<sup>th</sup>, 1998 (excerpt)**

- The gifts should contain medicines according to the list presented by the recipient.
- The medicines sent as gifts should be registered or they should contain an active substance present in medicines registered in Poland. In the case of natural calamities or other exceptional circumstances, there is acceptable a deviation from the aforementioned rule.
- The quality of medicines should comply with quality standards required in the country of the donor and recipient. A document of the pharmaceutical supervision authority of the country sending the gifts should be attached to the gifts to confirm that the medicines have been made by a producer authorized to produce them in the given country. The medicines transferred as gifts should be accepted for trade in the donor's country and they should be made according to standards of the good manufacture practice (GMP).
- The medicines transferred as gifts cannot come from returns from customers to drug stores or other subjects, or from doctors from their free samples.
- The donated medicines should have at least one-year-long expire period. A medicine whose validity period is not longer than two years can constitute an exception. In such a case, the remaining validity period should not be shorter than one third of the whole validity period. Medicines sent directly to health care units in quantities that can be used before the expire date are an exception here.
- All medicines should be marked in English, German, or French. The label placed on each package should contain the international name, series number, form, dose, name of the producer, quantity in the package, storage conditions, and expire date.
- The parcel should contain a list of the content of every box, including international names of the medicines, their forms, doses,

series numbers, expire dates, quantity and sizes of packages, weight, and possible special storage conditions. The weight of a box should not exceed 50 kg. Depending on possibilities, every box should contain one type of the medicine.

- The recipient of medicines should be informed about the planned, prepared, or dispatched shipment of the medicines.
- The declared value of the gift should be calculated by the recipient according to national whole-sale prices of reconstructive medicines, equivalent to medicines included in the donation or, if such medicines are not available in Poland, the value should be calculated on the basis of whole-sale prices of reconstructive medicines; the value should be calculated on the basis of prices of the therapeutically nearest medicines accepted for trade in Poland.
- The donor should cover costs of the international and local transport, customs fees, and costs of storage, unless it has been agreed otherwise.
- The gift can be also transferred in a monetary form to purchase medicines made locally.

## **II. CLOTHES**

### **Pursuant to provisions of the Act of June 27<sup>th</sup>, 1997, on Wastes**

(O.J. No. 96, item 592, as amended)

- a) Used-up clothes, which cannot be further used according to its purpose or is declared as allocated for a different purpose, is a waste according to the Waste Law and a permit of the Chief Environmental Protection Inspector is required for its import,
- b) the mixture of second-hand and used-up clothes (determined as "not sorted clothes", "original clothes") shall be treated analogously as used-up clothes and a permit of the Chief Environmental Protection Inspector is required for its import.

Second-hand clothes that can be still used according to its primary purpose does not constitute a waste according to the Waste Law and no permit of the Chief Environmental Protection Inspector is required for its import.

In the case of confirming an import of used-up clothes into the Polish customs zone (even mixed with second-hand clothes) without a permit of the Chief Environmental Protection Inspector, the goods are returned abroad.

**According to provisions of the Resolution of the President of the Republic of Poland of March 22<sup>nd</sup>, 1928, on the Supervision Over Food Articles and Utility Objects** (O.J. No. 36, item 343, as amended), the clothes (considered to be a utility object) is subject to a border sanitary control.

- In the case of importation of the second-hand clothes into the Polish customs territory there should be observed requirements resulting from the disposition of the Chief Sanitary Inspector of April 7<sup>th</sup>, 1994, on conditions that should be met by shipments of second-hand clothes.
- Every delivery of second-hand clothes imported into the Polish customs zone should possess a document confirming the realization of the disinfection and disinsectization. The said document should be presented in its original copy and it should possess a legible seal of the institution, which has conducted the disinfection and disinsectization. It is also necessary to indicate methods and temperatures of the operations. The document should contain the name and address of the importer, name and address of the exporter, size of the load, and registration numbers of the car that carries the clothes.
- The clothes have to be washed, piled, and segregated. Only one assortment should be packed in individual packages. The clothes should be in a state ensuring their further usage according to the purpose.
- Unitary packaging (sacs, bags, boxes) should be clean. A specification of the content should be attached to every package in the Polish language.
- The shipment cannot contain second-hand shoes, whose import is prohibited.

In the case of stating the unitary packaging with clothes contain also other goods (e.g., shoes, food articles, pharmaceutical means) or clothes not meeting sanitary requirements, the whole shipment is returned abroad.